IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

R.S.A. No. 1820 of 2002(O&M)
Date of Decision : 11.10.2007

M/s Santokh Singh Sohal Charita ble Hospital Trust Chandigarh Road, Samrala Chowk, Ludhiana through Sh. Brijinder Singh son of Sh. Santokh Singh Sohal Trustee & Ors.

..... Appellants

Versus

Sh. Kedar Nath (now deceased/dead) through his legal representatives & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.S.K. Sood, Advocate
for the appellants.

Mr.Amit Jain, Advocate
for respondents No. 1 & 2.

Mr. Chetan Mittal, Advocate
for respondents No. 3 to 6.

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VINOD K. SHARMA, J. (ORAL)

This regular second appeal has been filed against the judgments and decrees passed by the learned Courts below vide which two suits filed by the plaintiff appellants, have been ordered to be dismissed.

The plaintiff earlier filed a suit for injunction and also rectification of sale deeds on the ground that in the sale deed executed in his favour khasra numbers were wrongly mentioned.

It is case of the plaintiff appellants that on the application moved in the said suit an order of status quo was passed. However, in violation of the order of status quo the property was sold by way of sale

deeds wrongly executed, therefore, he filed a suit for declaration claiming that the sale deeds executed by defendants No.1 & 2 were null and void and not binding on the rights of the plaintiffs.

However, this fact is controverted by the learned counsel appearing on behalf of the respondents pointing out that the order of status quo was passed much after the execution of the sale deeds for the reason that the suit was filed in the year 1986 whereas the sale deeds were executed in the year 1985.

Both the suits were ordered to be consolidated. However, the plaintiffs failed to lead evidence in support of their case and consequently the evidence of the plaintiffs was ordered to be closed. The evidence of the plaintiff appellants was ordered to be closed after they examined all other witnesses except plaintiffs. The plaintiffs challenged the closure of its evidence by filing a civil revision in this court. The said revision petition was dismissed and order of closure of evidence attained finality.

Thereafter on appreciation of evidence and keeping in view the fact that the plaintiffs had failed to appear in the witness box in support of their case, both the suits filed by the plaintiff appellants were ordered to be dismissed. Instead of filing two appeals against the said judgment and decree the appellant plaintiffs chose to file one single appeal and said appeal has also been ordered to be dismissed and the judgment and decree passed by the learned trial Court was ordered to be affirmed.

One of the grounds raised by the learned counsel for the appellants is that the order of closure of his evidence was bad in law as no warning was issued to him before ordering the closure of its evidence. In support of this contention reliance has been placed on the judgment of this

Court in the case of ***Smt. Surjit Kaur Vs. Gurinder Singh 2000(3) PLR306.***

However, the learned counsel appearing on behalf of the appellants contends that the third suit filed by the appellant plaintiffs stands decreed and the respondents have been ordered to be restrained from interfering in the possession of the plaintiffs.

The contention of learned counsel for the appellant plaintiffs, therefore, is that these two suits should also be decreed considering the decree passed in the 3rd suit. The plea of the learned counsel for the appellant plaintiffs is misconceived as no evidence has been brought on record either in the shape of judgment or otherwise qua the 3rd suit and, therefore, the same cannot be taken into consideration to decide this appeal. It may also be noticed that the plaintiffs had chosen to file only one appeal which was also against two judgments and decrees passed, therefore, it can be presumed that the judgment and decree passed in the other suit attained finality. No ground is made out to interfere with the concurrent finding of fact recorded by the learned Courts below. The contention raised by the learned counsel for the appellant can not be accepted in view of the fact that the revision against order passed by trial Court closing evidence of appellant was dismissed.

No substantial question of law has been raised in this appeal for consideration by this Court.

Consequently, there is no merit in the present appeal.

Dismissed.

11.10.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**